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EXAMINER RETTA, YEHDEGA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

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1 UNITED STATES PATENT AND TRADEMARK OFFICE
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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
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8 *Ex parte* CLAUDE M. LEGLISE and THOMAS C. MILLER
9

10 Appeal 2009-003160
11 Application 09/584,520
12 Technology Center 3600
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16 Decided: November 30, 2009
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20 *Before* MURRIEL E. CRAWFORD, HUBERT C. LORIN, and ANTON W.
21 FETTING, *Administrative Patent Judges*.

22
23 CRAWFORD, *Administrative Patent Judge*.
24

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26 DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection of claims 66-85. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

Appellants invented processor-based systems and methods utilized by a consumer that is controlled and managed by a service provider for the benefit of a retail vendor (Abstract).

Claim 66 under appeal is further illustrative of the claimed invention as follows:

66. A method comprising:

providing a customer identifier together with information about the identified customer's preferences to a service provider;

receiving a plurality of graphical user interfaces from said service provider, each graphical user interface of said plurality of graphical user interfaces to include content related to the products or services of a particular retail vendor, the content customized, at least in part, based on said information and not to include advertising for another retail vendor; and

preventing the identified customer from using Internet services through said service provider without the customer first viewing, in sequence, at least three graphical user interfaces from said plurality.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Tobin	US 6,141,666	Oct. 31, 2000
Rangan	US 6,412,073 B1	Jun. 25, 2002

BISYS® Enables Financial Institutions to Bring Direct Internet Access Services to Their Customers (Jan. 10, 2000),
<http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/01-10->

1 2000/000111171 . . . (last visited Jun. 27, 2007) (hereinafter
2 “BISYS”).

3 The Examiner rejected claims 66-70 and 81-85 under 35 U.S.C. §
4 103(a) as being unpatentable over BISYS in view of Rangan; claim 83 under
5 35 U.S.C. § 103(a) as being unpatentable over BISYS in view of Rangan
6 and further in view of Tobin; and rejected claims 71-80 under 35 U.S.C. §
7 103(a) as being unpatentable over Rangan in view of BISYS.

8 We AFFIRM-IN-PART.

10 ISSUES

1 Did the Appellants show the Examiner erred in asserting that a
2 combination of BISYS and Rangan renders obvious “preventing the
3 identified customer from using Internet services through said service
4 provider without the customer first viewing, in sequence, at least three
5 graphical user interfaces from said plurality,” as recited in independent claim
6 66?

Did the Appellants show the Examiner erred in asserting that a combination of BISYS and Rangan renders obvious an activity graphical user interface, a selection graphical user interface, and “in response to the selection of an indicator on a sign-in graphical user interface, identifying a current user of the processor-based system, said sign-in graphical user interface having different indicators for each known user of said particular processor-based system,” as recited in independent claim 71?

FINDINGS OF FACT

Specification

Appellants invented processor-based systems and methods utilized by a consumer that is controlled and managed by a service provider for the benefit of a retail vendor (Abstract).

Rangan

Rangan discloses that many companies offer various subscription services accessible via the Internet. For example, many people now do their banking, stock trading, shopping, and so forth from the comfort of their own homes via Internet access. Typically, a user, through subscription, has access to personalized and secure WEB pages for such functions. By typing in a user name and a password or other personal identification code, a user may obtain information, initiate transactions, buy stock, and accomplish a myriad of other tasks (col. 1, ll. 26-35).

Once a user has logged-in at an Internet Portal, the portal may present a secure and personalized page for the user, the personalized page having a list of Internet destinations enabled by hyperlinks, wherein, upon invocation of a hyperlink by the subscriber, the portal invokes a URL for the destination, and upon connection with the destination, transparently provides any required log-on information required for user access at the destination (col. 2, ll. 10-20).

The personalized portal page may include an interactive listing of user-subscribed or member WEB pages, identified in this example by URL. Listed in a first column under destination are exemplary destinations LBC.com, MyBank.com, MyStocks.com, Myshopping.com, Mortgage.com,

1 and Airline.com. In order to view additional listings listed but not
2 immediately viewable from within application 33, a scroll bar 35 is provided
3 and adapted to allow a user to scroll up or down the list to enable viewing as
4 known in the art (col. 5, ll. 18-35).

5 In some instances a particular service may have more than one
6 associated URL. For example, MyBank.com may have more than one URL
7 associated for such as different accounts or businesses associated also with a
8 single subscriber. In this case, there may be a sub-listing for different
9 destinations associated with a single higher-level listing. This expedient is
10 not shown, but given this teaching the mechanism will be apparent to those
11 with skill in the art (col. 5, ll. 45-51).

12 One page may be shared by more than one user, such as a husband
13 and wife sharing a common account and subscription. In another
14 embodiment, a network of individuals, perhaps business owners, authorized
15 co-workers, investment parties, or the like may share one application (col. 5,
16 ll. 53-62).

17 PRINCIPLES OF LAW

18 *Claim Construction*

19 Claim language cannot be mere surplusage. An express limitation
20 cannot be read out of the claim. *Texas Instruments Inc. v. United States Int'l*
21 *Trade Comm'n*, 988 F.2d 1165, 1171 (Fed. Cir. 1993).
22

1 *Different Indicators*

2 We are persuaded of error on the part of the Examiner by Appellants'
3 argument that a combination of BISYS and Rangan does not render obvious
4 an activity graphical user interface, a selection graphical user interface, and
5 “in response to the selection of an indicator on a sign-in graphical user
6 interface, identifying a current user of the processor-based system, said sign-
7 in graphical user interface having different indicators for each known user of
8 said particular processor-based system,” as recited in independent claim 71
9 (App. Br. 14, Reply Br. 3-5). Figure 2 of Rangan most logically
10 corresponds to the selection graphical user interface. To do otherwise would
11 impermissibly read either the sign-in or selection graphical user interface out
12 of the claim. *See Texas Instruments Inc. v. United States Int'l Trade*
13 *Comm'n*, 988 F.2d at 1171. Accordingly, a user must sign-in on the sign-in
14 graphical user interface to reach the selection graphical user interface.
15 Rangan discloses that one page 33 may be shared by more than one user, for
16 example, a husband and wife or network of business owners. The Examiner
17 asserts this corresponds to the claimed different indicators. However, just
18 because multiple users share the same page does not mean that each user has
19 their own indicator on the sign-in graphical user interface, which again, is
20 prior to the selection graphical user interface. Indeed, neither Rangan nor
21 BISYS provides any details concerning the specifics of logging in on the
22 sign-in graphical user interface, indicators or otherwise.

23 By virtue of their dependence on independent claim 71, we also do
24 not sustain the rejection of dependent claims 72-80 under the Examiner's
25 proffered rationale.

Independent Claim 81

The Appellants have not provided any arguments concerning Examiner error in rejecting independent claim 81. While the headings on page 12 of the Appeal Brief and page 1 of the Reply Brief lump together claims 66-70 with claims 81-85, all of the arguments are directed solely to independent claim 66. Accordingly, in the absence of any arguments concerning Examiner error in rejecting independent claim 81, the rejection of claims 81-85 is affirmed. *See In re Kahn*, 441 F.3d at 985-86.

CONCLUSION OF LAW

On the record before us, Appellants have shown that the Examiner erred in rejecting claims 66-70 and 71-80.

On the record before us, Appellants have not shown that the Examiner erred in rejecting claims 81-85.

DECISION

The decision of the Examiner to reject claims 66-70 and 71-80 is reversed.

The decision of the Examiner to reject claims 81-85 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2007).

AFFIRMED-IN-PART

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